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 17 **UNITED STATES DISTRICT COURT**
 18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 19 **SAN FRANCISCO DIVISION**

20 IN RE: DA VINCI SURGICAL
 21 ROBOT ANTITRUST LITIGATION
 22
 23 THIS DOCUMENT RELATES TO:
 24 ALL ACTIONS

25 Case No.: 3:21-cv- 03825-AMO-LB

26
 27 **MOTION TO AMEND OMNIBUS SEALING
 28 ORDER RE: CLASS CERTIFICATION
 BRIEFING AND EXTEND THE OMNIBUS
 SEALING DEADLINE**

Judge: The Honorable Araceli Martínez-Olguín

MOTION AND NOTICE OF MOTION

Pursuant to Civil Local Rules 7-11 and 79-5, the Joint Stipulation and Order Regarding Omnibus Sealing Procedures, Dkt. 269 (“Sealing Stip.”), and the Court’s directive following the January 23, 2025 hearing, Dkt. 311, Plaintiffs and Defendant Intuitive Surgical, Inc. (“Intuitive”) (together, the “Parties”) hereby file this Motion to Amend the Omnibus Sealing Order and Extend the Omnibus Sealing Deadline (the “Motion”) in connection with certain documents submitted in support of or in opposition to Plaintiffs’ Motion for Class Certification.

On February 6, 2025, the Parties filed an Amended Omnibus Sealing Motion Re: Class Certification Briefing, Dkt. 330, including a Proposed Order, Dkt. 330-1. On March 28, 2025, this Court entered its Omnibus Sealing Order (the “Order”), Dkt. 332. Pursuant to the Sealing Stip., the Parties were to file “the public-facing version of the document [sought to be sealed] … within 21 days following the Court’s order on the omnibus sealing motion.” Sealing Stip. ¶ 5. On April 18, 2025, the Parties asked the Court for a short extension of time to file the newly-public material. Dkt. 337. On April 21, 2025, the Court granted the Parties’ request to extend the deadline to publicly file those materials until April 25, 2025. Dkt. 338. Having conferred, the Parties now submit this motion to amend the Order to correct some inadvertent typographical errors and omissions.

Below is a list of the corrections the Parties are seeking to the Order. As detailed below, the sealing of the corrected materials is supported by the same materials previously relied upon by this Court in its Omnibus Sealing Order. The complete list of excerpts that Plaintiffs, Intuitive, and third parties seek to seal and the grounds therefore can be found in the Omnibus Sealing Motion re: Class Certification Briefing, the statements and declarations filed therewith, and the proposed order filed with the Court, Dkt. 304, the Amended Omnibus Sealing Motion re: Class Certification Briefing and the proposed amended order filed with the Court, Dkt. 330, and the proposed amended omnibus sealing order submitted herewith.

1 Document or 2 title or 3 description	4 Dkt. of 5 publicly- 6 filed 7 version	8 Dkt. of 9 sealed 10 version	11 Dkt. of 12 decl. in 13 support 14 of 15 sealing	16 Party 17 seeking 18 sealing	19 Sealing sought	20 Brief statement 21 of reason for 22 sealing (with 23 citation to 24 corresponding 25 declaration in 26 support of 27 sealing)	28 Granted/ Denied (leave blank)	
Restore Robotics Sealing Requests								
Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Dkt. 267.2	Dkt. 268.2		Third-party Restore Robotics	Restore's Highly Confidential information appears in the Elhauge Class Report in footnotes 124, 127 , 382 , 397 , 444 , 445 , 762 , 769, 770 , 771 , 839, 864 , 900 , 1014, 1025, 1068, 1110, 1114, 1194, 1224 , 1230, 1242, 1587, and 1805, and in the body of the Elhauge Class Report to which those footnotes refer. These sections are identical to previously sealed sections of the Corrected Elhauge Report (see Omnibus Sealing Order at Dkt. No. 246)	This material was sealed previously in the Corrected Elhauge Report (see Parker Decl. at Dkt. No. 166 and 144)		

1 Document or 2 title or 3 description	4 Dkt. of 5 publicly- 6 filed 7 version	8 Dkt. of 9 sealed 10 version	11 Dkt. of 12 decl. in 13 support 14 of 15 sealing	16 Party 17 seeking 18 sealing	19 Sealing sought	20 Brief statement 21 of reason for 22 sealing (with 23 citation to 24 corresponding 25 declaration in support of 26 sealing)	27 Granted/ 28 Denied (leave blank)
Restore Robotics Sealing Requests							
Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Dkt. 267.2	Dkt. 268.2		Third-party Restore Robotics	Restore's Highly Confidential information appears in the Elhauge Class Report in footnotes 124, 127 , 540 , 708, 1110, 1114, 1230, 1199, 1075, 1224 , 1226 , 1227, 1229, 1231, 1585, 1586, 1587, 1588, and 1805, and in the body of the Elhauge Class Report to which those footnotes refer. These sections are identical to previously sealed sections of the Elhauge Reply Report (see Omnibus Sealing Order at Dkt. No. 246)	This material was partially sealed previously in the Elhauge Reply Report (see Parker Decl. at Dkt. No. 166 and 144)	

21 Document or 22 title or 23 description	24 Dkt. of 25 publicly- 26 filed 27 version	28 Dkt. of sealed version	29 Dkt. of 30 decl. in 31 support 32 of 33 sealing	34 Party 35 seeking 36 sealing	37 Sealing sought	38 Brief statement 39 of reason for 40 sealing (with 41 citation to 42 corresponding 43 declaration in support of 44 sealing)	45 Granted/ 46 Denied (leave blank)
Intuitive Sealing Requests							
Ex. 1 to the Declaration of Manuel	Dkt. 267.2	Dkt. 268.2	Wong Dec., Dkt. 304.2	Intuitive	Page 115 , Figure 13 – Margin figures	See Wong Dec. ¶4, Omnibus Motion to Seal at Section III.A	

1 Document or title or description	2 Dkt. of publicly- filed version	3 Dkt. of sealed version	4 Dkt. of decl. in support of sealing	5 Party seeking sealing	6 Sealing sought	7 Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	8 Granted/ Denied (leave blank)
Intuitive Sealing Requests							
11 J. Dominguez (Elhauge Class Report)	12	13	14	15	16 Page 148, ns. 677, 678, 680, 681, 683, 684 – Customer identities	17	18
					19 Page 171, paragraph 340 and n.785 – Pricing figures	20	21
					22 Page 174, paragraph 347 and ns. 805 , 808 , 809 – Margin figures	23	24
					25 Page 192, paragraph 394 and ns. 888 , 889 – Pricing figures	26	27
					28 Page 260, n. 12034182 – Customer identity		
					Page 261, n.120 54 – Customer identity		
					Page 327, paragraph 669 , 670, n. 1535, and n. 1536 – Pricing figures		
					Page 328, paragraph 671 and ns. 1543 , 1544 , 1545 – Margin figures		
					Page 402 , paragraph 822		

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Intuitive Sealing Requests							
					and n.1863 – Pricing figures Page 425, paragraph 870, 871, 872, and n. 1961, 1962 – Pricing figures and Customer identities Page 426, paragraph 873 and ns.<u>1966,</u> <u>1967</u>, 1968 – Customer identities <u>and</u> <u>Pricing strategy</u>		
14 Bass Dec. Ex. 1 - Expert Rebuttal Report of James W. Hughes	15 Dkt. 288.5	16 Dkt. 289.4	17 Wong Dec., Dkt. 304.2	18 Intuitive	19 Page 20, Figure 8 – Customer identity Page 65, paragraph 97 and ns. 153, 154, 155 – Pricing figures <u>and customer identities</u> Page 91, paragraph 134 – Customer identities and pricing figures Page 126, Table 3 – Pricing figures <u>and</u> <u>customer identities</u>	20 <i>See Wong Dec. ¶4 Omnibus Motion to Seal at Section III.A</i>	21 22 23 24 25

1 Document or title or description	2 Dkt. of publicly- filed version	3 Dkt. of sealed version	4 Dkt. of decl. in support of sealing	5 Party seeking sealing	6 Sealing sought	7 Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	8 Granted/ Denied (leave blank)
Intuitive Sealing Requests							
Glubiak Dec. Ex. 2 - James Hughes Amended Expert Report	Dkt. 296.3	Dkt. 297.3	Wong Dec., Dkt. 304.2	Intuitive	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Ashley Bass. <i>See entry above for Hughes Expert Report.</i> <u>Except that due to amendment, the entry for Page 125, list nos. 297, 300 should be Page 125, list nos. 298, 301 for the Hughes Amended Report – Customer identities</u>	<i>See Wong Dec. ¶4 Omnibus Motion to Seal at Section III.A</i>	
<u>Glubiak Dec. Ex 3 – Elhauge Reply Report</u>	<u>Dkt. 296.4</u>	Dkt. 297.4	Wong Dec., Dkt. 304.2	Intuitive	Page 55 – Pricing figures <u>and customer identities</u> Page 59 – Pricing figures <u>and customer identities</u> Page 61 – Pricing figures <u>and customer identities</u> Page 63 – Pricing figures <u>and customer identities</u> Page 64 – Pricing figures,	<i>See Wong Dec. ¶4 Omnibus Motion to Seal at Section III.A</i>	

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Intuitive Sealing Requests							
					customer identit <i>esy</i>		

The Parties also believe that in light of the requested amendments to the Court's Omnibus Sealing Order, it would be most efficient to extend the deadline to file new public-facing versions of previously sealed material so that the Parties have the benefit of the Court's decision on this Motion prior to filing. The Parties therefore respectfully request that the Court amend its previous Order to maintain these corrected materials under seal and extend the deadline for the parties to file the new public-facing version of previously sealed materials so that they must be filed within one week of the Court's decision on the Motion. A proposed amended order making these revisions and extending the deadline is attached hereto.

Dated: April 25, 2025

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FILER'S ATTESTATION

I, Andrew Lazerow, am the ECF User whose ID and password are being used to file this document. I hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1(i)(3), that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: April 25, 2025

/s/ Andrew Lazerow
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